

Summary

OFFSET ON BUSINESS TRANSACTIONS

Topic of this thesis is set-off in commercial relations. It is structured in three main chapters which deal with the most relevant issues and problems related to set-off in commercial relations. Not only it analyzes the current state of law and case law but tries to interpret Act No 89/2012 Coll., New Civil Code.

First part of the thesis aims at the preconditions for set-off. Firstly, the possibility of set-off of foreign currency claims in New Civil Code is discussed. It also reflects upon the long standing discussion of set-off of due rights against rights which are not due. Then it proceeds to new precondition for set-off – certainty of rights. Author of this thesis argues that such precondition refers to reasonable doubts as to the existence and value of the right.

Second part of the thesis deals with set-off of two or more rights and obligations. Author analyzes problematic aspects of current case law which *en bloc* excludes such possibility with the result that notice of set-off has to be overly specific. Controversy of the current case law, moreover, lies in the fact that it contradicts the previous case law which (in the author's view correctly) do not excessively distinguish between set-off and performance of the obligations. Admittedly, some author's conclusions may be seen as problematic as well – especially the lack of specification of rights to be set-off.

Last part examines the effects of set-off which are under current state of Czech law and under New Civil Code designed retrospectively. The key question in this chapter is the effect of set-off on the interest, liquidated damages and damages accrued after the set-off became possible. Author argues that there are two possible approaches (narrow and broad) and the choice between them has to be done as a proper policy choice. Finally the possibility to pay interest of the interest accrued before the set-off was possible is analyzed.